

IOWA DEPARTMENT OF NATURAL RESOURCES

IN THE MATTER OF:**ADAM ANDERSON****OPERATOR CERTIFICATE No. 7387****ADMINISTRATIVE CONSENT ORDER****2007-WW- 14****2007-WS-02**

TO: Adam Anderson
1005 4th Ave.
Armstrong, IA 50514

I. SUMMARY

Under the terms of this consent order, Adam Anderson (Mr. Anderson) agrees to surrender his Public Water system water treatment and water distribution operator certification, number 7387, in settlement of a proposed action by the Iowa Department of Natural Resources (Department) to seek revocation of the certification. Mr. Anderson agrees to be permanently barred from applying for public water supply and wastewater treatment system operator certification in Iowa.

Any questions regarding this notice should be directed to:

Relating to Technical Issues:

Julie Sievers
Iowa Department of Natural Resources
1900 N. Grand, Gateway North Mall
Spencer, IA 51301
Tel. No. 1-712-262-4177

Relating to legal issues:

David Womson, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Tel. No. 1-515-242-5817

II. JURISDICTION

The Department is taking this action pursuant to the authority granted in Iowa Code section 455B.219 and Iowa Code sections 272C.3 & 272C.10 and 567 Iowa Administrative Code (IAC) 81.17.

III. STATEMENT OF FACTS

1. Mr. Anderson currently holds a Public Water System Certificate, No. 7387 (Certificate), for certification at a Grade 2 water treatment and a Grade 2 water distribution level. He has been a certified water supply and waste water operator in direct responsible charge of the City of Armstrong water treatment facility (PWSID permit number 3203066) and wastewater facility (NPDES permit number 3203001).

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2. As the result of inspections and investigation between March and June of 2007, the Department determined that Mr. Anderson failed to maintain monthly operations reports (MORs), failed to test according to permit requirements and falsified MORs.
3. Mr. Anderson has agreed to voluntarily surrender his certificate and to not re-apply for public water supply, water distribution and waste water system operator certification in Iowa. The Department has agreed to forego initiation of a disciplinary action to permanently revoke Mr. Anderson's certification in settlement of this matter and subject to the terms of this consent order.

IV. CONCLUSIONS OF LAW

1. Iowa Code sections 455B.212, 213(1) and Iowa Code section 272C.1(6)"x" authorize the Director of the Department to adopt rules establishing water treatment and water distribution certification programs. In addition, Iowa Code section 455B.219 and Iowa Code section 272C.10 authorize the Department to initiate disciplinary actions including but not limited to suspension and revocation of operator certifications. The Environmental Protection Commission has adopted rules establishing the certification programs and providing for disciplinary actions. See 567 IAC 81.
2. Sub-rule 567 IAC 81.17(1) specifies criteria which may form the basis for a disciplinary action including suspension or revocation. The criteria include the following:
 - a. Failure to use reasonable care or judgment or to apply knowledge or ability in performing the duties of a certified operator. ...
 - b. Failure to submit required records of operation or other reports required under applicable permits or rules of the Department, including the failure to submit complete records or reports.
 - c. Knowingly making any false statement, representation, or certification on any application, record, report or document required to be maintained or submitted under any applicable permit or rule of the Department.
 - d. Fraud in procuring a license.
 - e. Professional incompetence.
 - f. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
 - g. Habitual intoxication or addiction to the use of drugs.
 - h. Conviction of a felony related to the profession or occupation of the licensee. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
 - i. Fraud in representations as to skill or ability.
 - j. Use of untruthful or improbable statements in advertisements.
 - k. Willful or repeated violations of the provisions of Iowa Code chapter 272C or 455B, division III.

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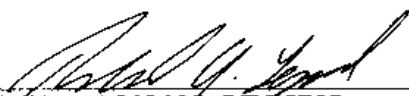
3. Sub-rule 567 IAC 42.4(3) requires a certified operator in direct responsible charge of water treatment facilities to complete and sign specified monthly operation reports (MORS).
4. Mr. Anderson completed and signed inaccurate and false MORS and these actions constitute a sufficient basis for revocation under Iowa Code section 455B.219(2), (3), (8), Iowa Code section 272C.10(2), (3), (8) and 567 IAC 81.17.

V. TERMS AND CONDITIONS

1. Mr. Anderson knowingly and voluntarily agrees to surrender his Public Water System certificate number 7387. His certification is deemed to be revoked effective June 18, 2007.
2. Mr. Anderson agrees to be permanently barred from applying for a public water supply system, water distribution system and waste water treatment system operator certification as provided in Iowa Code sections 455B.211-224 and Department rules in chapter 567 IAC 81.


VI. APPEAL RIGHTS

Iowa Code section 455B.219, Iowa Code sections 272C.5 & 272C.6, Iowa Code section 17A.18 and 567 IAC 81.17(3), provide Mr. Anderson with the right to appeal and request an evidentiary hearing if a disciplinary action for suspension or revocation of his certificate is initiated by the Department. By signing this consent order, Mr. Anderson knowingly and voluntarily agrees to waive all right to appeal or contest the terms of this consent order.



RICHARD A. LEOPOLD, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 7 day of
August, 2007



ADAM ANDERSON

Dated this 27 day of
July, 2007

Operator certification no. 7387, field office 3, David Womson, Barb Lynch, I(D) & II(D).